prime when examined in New York, and therefore the plaintiffs had a right to reject them, and by sending apples inferior in quality the defendants committed a breach of contract; the quality of course is determined by the place of delivery; this, I think, is well established in law.

I refer to the case of Jones v. Just, L. R. 3 Q. B. 197, where it was held that upon a contract to supply goods of a specified description which the buyer has no opportunity of inspecting, the goods must not only in fact answer the specific description, but must be saleable or merchantable under that description.

On being advised by plaintiffs of inferior quality, the defendants wired Delmarle that they would ship no further until that car was accepted, and instructed Delmarle to look after the apples, but he could not sell in New York, on account of the inferior quality, and the defendants then advised him to ship to Halifax for sale, which he did, shewing clearly that these apples were not merchantable on the New York market.

On this branch there is the case of Dougall v. Choulou, Q. R. 15 K. B. 300 (1906), which seems very much in point. It was a contract for the sale of prime evaporated apples rejected in New York, the New York evidence being that the apples were not prime, and the local evidence being that they were prime when shipped. They were inspected and sampled and examined in New York apparently the same way as in this case, and the apples were afterwards sold as of prime quality and accepted as such. I follow the view taken in that case, in so far as it applies to this case, and it seems to me to apply very closely indeed.

I notice also that after the rejection of the apples in New York the defendants telegraphed the plaintiffs on 2nd November as follows, "Can ship car 500 prime to-day for one rejected," which looks to me as though at that time the defendants were not so positive that the apples were prime as they seem to be now. The plaintiffs replied to this telegram by letter saying that they had already covered on the defendants' contract, and any way shipment would now be too late, and they also wrote on the same day to defendants, saying: "Enclosed please find statement $150, being difference on the two cars of apples covered in against your contract. We shall draw on you on Wednesday at sight for same, which we ask you to protect." And on 4th November the defendants replied: "Will not